

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14970 of Square 369 Limited Partnership, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Sub-section 501.1) to allow an auto repair shop for the restoration of antique-classic cars on the first floor in an SP-2 District at the rear of 1100 Shepard Court, N.W., (Square 369, Lot 804).

HEARING DATE: March 15 and May 17, 1989
DECISION DATE: July 5 and September 6, 1989

FINDINGS OF FACT:

1. The application appeared on the preliminary agenda of the public hearing of March 15, 1989 because no affidavit of posting was filed by the applicant. The applicant indicated that the property was not properly posted as required. The Board continued the public hearing on the application until its public hearing of May 17, 1989.

2. The property is located within the interior of square 369, which is bounded by L Street on the south, M Street on the north, 9th Street on the east and 10th Street on the west, and is known as premises 1100 Shepard Court, N.W. It is zoned SP-2.

3. The property is improved with a one-story cinder block building constructed in approximately 1957 for commercial purposes.

4. The structure is currently leased as a body shop specializing in the restoration of classic cars. The lessee has operated at the subject location for approximately thirteen years. Previous use of the premises includes paint storage and garage, an exterminator and an upholstery shop.

5. The site is located in an SP-2 zoning district which permits matter-of-right medium/high density residential development, as well as limited offices for non-profit organization, trade associations and professionals with special exception approval. The applicant is seeking a variance from the use provisions to allow an auto repair shop for the restoration of classic cars.

6. Access to Shepard Court is from L Street, between 9th and 10th Streets, N.W. Shepard Court is essentially a

thirty foot wide public alley which gives access to several properties located in the interior of Square 369.

7. The subject premises is situated to the rear of a large apartment building fronting on L Street. Other commercial uses in the square include parking lots, vendor cart storage facilities and a tile storage establishment.

8. The general vicinity of the site is in transition. Property scheduled for development by the University of the District of Columbia is located to the west across 9th Street. Mount Vernon Square is situated approximately one and a half blocks south at 9th Street and Massachusetts Avenue. The Convention Center and Techworld are located approximately three blocks south of the site.

9. The hours of operation of the facility are from 8:00 A.M. to 7:00 P.M., Monday through Saturday. The number of employees ranges from one to four depending on the workload. All repair and restoration work occurs within the structure. There is ample space for the storage of up to ten vehicles immediately adjacent to and west of the structure.

10. The existing building was originally constructed for commercial purposes with garage doors, few windows and no interior partitions or plumbing suitable for residential purposes. The lessee testified that it would be economically and structurally impractical to convert the building for any other use.

11. The lessee testified that he has never received complaints regarding his operation at the subject premises. There have been complaints regarding abandoned vehicles in the public space not related to the subject operation. The lessee, in conjunction with other neighbors, has had those vehicles removed by the proper authorities.

12. The Office of Planning (OP), by memorandum dated March 8, 1989, recommended that the application be approved. The OP was of the opinion that the continued use of the premises for antique car restoration is well adapted to the subject structure, as well as to the types of commercial uses in the immediate area. The OP was further of the opinion that the inability of the applicant to convert the structure for other uses creates a hardship on the owner which would force the relocation of the existing business. The OP further recommended that the approval of the application be conditioned as follows:

- a. The hours of operation of the subject business shall be limited to 8:00 A.M. to 7:00 P.M.;
- b. The days of operation of the subject business shall be limited to Monday through Saturday; and,

- c. Outside areas related to the subject business and structure shall be kept clean and free of refuse.

13. Advisory Neighborhood Commission (ANC) 2C, by letter dated February 13, 1989, supported the granting of the application. The ANC's support was generally based on the following:

- a. The facility has been in operation for thirteen years.
- b. The local community indicated strong support for the continued operation of the facility at the subject location.
- c. The applicant has been a good neighbor, has participated in neighborhood anti-drug activity, and has provided employment for residents in the immediate area.
- d. The concerns raised by residents relative to abandoned vehicles in public space are not associated with the subject facility.
- e. Denial of the variance would force the business to move to another location where the use is permitted as a matter-of-right.

14. The record contains a petition of approximately twenty-four signatures from neighbors of the facility in support of the required variance.

15. The record contains letters in opposition to the granting of the requested variance from the Single Member District Advisory Neighborhood Commission Commissioner, the "O" Street Community Association and the President of the Wisteria Mansion Condominium Association. The opposition was generally based on the following:

- a. The area north of Massachusetts Avenue should remain residential in nature.
- b. The use of the premises for auto repair work generates unsightly and hazardous debris in Shepard Court.
- c. The intrusion of commercial uses in the block will hinder potential residential redevelopment in the square.

16. In addressing the concerns raised by the opposition, the Board find as follows:

- a. The subject premises were constructed for and have been occupied for commercial purposes since 1957

with no evidence of adverse impacts on residential uses in the square.

- b. The subject facility is one of several commercial uses in the square. The existence of these commercial facilities does not appear to have adversely affected residential uses in the square nor to have hindered development plans for additional residential development in the immediate area.
- c. The existing structure and its location in the interior of the square is not easily convertible for residential purposes.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires a showing of undue hardship upon the owner arising out of some extraordinary or exceptional condition inherent in the property which prevents its reasonable use for purposes for which it is zoned. The Board further must find that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent of the Zoning Regulations.


The Board concludes that the applicant has provided sufficient proof to establish an undue hardship inherent in the property. The property is affected by an extraordinary situation based on the existing physical improvements, its location in the interior of the block, and the historical use of the site for commercial purposes. The structure, which predates the adoption of the 1958 Zoning Regulations, was constructed for commercial purposes and has never been used for any purpose permitted as a matter-of-right in the SP-2 District.

The Board further concludes that the existence of the facility at the subject location for several years without adverse impact on neighboring properties evidences that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zone Plan. Accordingly, it is hereby ORDERED that the application is GRANTED.

VOTE: 5-0 (Charles R. Norris, Carrie L. Thornhill, Paula L. Jewell and William F. McIntosh to grant; Lloyd Smith to grant by proxy).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: _____

FEB 28 1990

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14970order/BHS16

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14970

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated FEB 28 1990, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

James Williams
1100 Shepard Court, N.W.
Washington, D.C. 20001

Square 369 Limited Partnership
1007 K Street, N.W.
Washington, D.C. 20005

Delores Satterfield
900 S Street, N.W.
Washington, D.C. 20001

Clarene Martin, Chairperson
Advisory Neighborhood Commission 2-C
Garrison Elementary School
1200 S Street, N.W., Suite 202
Washington, D. C. 20009

A handwritten signature in dark ink, appearing to read "EL Curry", is written over a horizontal line.

EDWARD L. CURRY
Executive Director

FEB 28 1990
DATE: _____